



[9111-28-P]

**DEPARTMENT OF HOMELAND SECURITY**

**[Docket No. ICEB-XXXX]**

**RIN 1653-ZA09**

**Employment Authorization for Nepali F-1 Students Experiencing Severe Economic Hardship as a Direct Result of the April 25, 2015 Earthquake in the Federal Democratic Republic of Nepal**

**AGENCY:** U.S. Immigration and Customs Enforcement; Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This notice announces that the Secretary of Homeland Security (Secretary) has suspended certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is the Federal Democratic Republic of Nepal (hereinafter “Nepal”) and who are experiencing severe economic hardship as a direct result of the earthquake in the Federal Democratic Republic of Nepal on April 25, 2015.

The Secretary is taking action to provide relief to these Nepali citizens who are F-1 students so they may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 student status. The Department of Homeland Security (DHS) will deem an F-1 student who receives employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the student satisfies the minimum course load requirement described in this notice.

**DATES:** This notice is effective **[Insert date of publication in the Federal Register]** and will remain in effect until December 24, 2016.

**FOR FURTHER INFORMATION CONTACT:** Louis Farrell, Director, Student and Exchange Visitor Program; U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Stop 5600, Washington, DC 20536-5600; e-mail: [sevp@ice.dhs.gov](mailto:sevp@ice.dhs.gov), telephone: (703) 603-3400. This is not a toll-free number. Program information is available at <http://www.ice.gov/sevis/>.

**SUPPLEMENTARY INFORMATION:**

**What action is DHS taking under this notice?**

The Secretary is exercising his authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students whose country of citizenship is the Federal Democratic Republic of Nepal (Nepal) and who are experiencing severe economic hardship as a direct result of the earthquake in Nepal on April 25, 2015. DHS will deem an F-1 student granted employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice. See 8 CFR 214.2(f)(6)(i)(F).

**Who is covered by this notice?**

This notice applies exclusively to F-1 nonimmigrant students who meet all of the following conditions:

- (1) Are a citizen of Nepal;

(2) Was lawfully present in the United States in F-1 nonimmigrant status on April 25, 2015, under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are enrolled in a school that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F-1 students;

(4) Are currently maintaining F-1 status; and

(5) Are experiencing severe economic hardship as a direct result of the damage caused by the earthquake of April 25, 2015.

This notice applies to undergraduate and graduate students, private kindergarten through grade 12 (K-12) students, and public and private high school students. An F-1 student covered by this notice who transfers to another school that is SEVP-certified for enrollment of F-1 students remains eligible for the relief provided by means of this notice.

### **Why is DHS taking this action?**

DHS is taking action to provide relief to the Nepali F-1 students experiencing severe economic hardship as a direct result of the earthquake in Nepal in April 2015. These students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 status.

The April 25th 7.8 magnitude earthquake and its aftershocks caused enormous damage in Nepal's vulnerable urban areas, as well as to its rural areas that are difficult to access because of the mountainous terrain and limited numbers of undamaged roads. The earthquake has negatively affected the whole economy of Nepal. Approximately 25 to 33

percent of Nepal's population of over 8 million people in 39 of Nepal's 75 districts have been affected by the earthquake and its aftershocks, which caused over 8,000 fatalities and more than 17,000 injuries, displacing over 2.8 million people from their homes. The country's critical infrastructure was severely damaged, and many government offices, schools, businesses, and hospitals were completely destroyed. Food security is jeopardized with over 3.5 million people estimated to be in need of food assistance. Displaced persons have varying access to basic services, such as shelter, water, sanitation, and hygiene, as well as medical care. At least 950,000 children in Nepal are at risk of being unable to return to school because their schools have been destroyed, damaged, or are being used as temporary shelters. The institutional capacity of the Nepali government to respond to the immediate effects of the earthquake is inadequate, and the Government of Nepal has issued a \$2 billion appeal for the Nepal Reconstruction and Rehabilitation Fund.

Approximately 9326F-1 students from Nepal are enrolled in courses at U. S. schools as of September 19, 2015. Given the extent of the destruction and humanitarian challenges in Nepal, affected students whose primary means of financial support comes from Nepal now may need to be exempt from the normal student employment requirements to continue their studies in the United States. The widespread disaster has made it unfeasible for many students to safely return to Nepal for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

**What is the minimum course load requirement set forth in this notice?**

Undergraduate students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six credit hours of instruction per academic semester.<sup>1</sup> A graduate-level F-1 student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three credit hours of instruction per academic semester. See 8 CFR 214.2(f)(5)(v).

In addition, an F-1 student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one course or three credits per semester of online or distance education toward satisfying this minimum course load requirement, unless the student's course of study is in an English language study program. See 8 CFR 214.2(f)(6)(i)(G). At an elementary, middle, or high school, an F-1 student must maintain "class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation," as required under 8 CFR 214.2(f)(6)(i)(E).

**May an eligible F-1 student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?**

Yes. A Nepali F-1 student who already has on-campus or off-campus employment authorization may benefit under this notice, which suspends regulatory requirements relating to the minimum course load requirement under 8 CFR

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<sup>1</sup> Undergraduate students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a "full course of study."

214.2(f)(6)(i)(A) and (B) and the employment eligibility requirements under 8 CFR 214.2(f)(9) as specified in this notice. Such an eligible F-1 student may benefit without having to apply for a new Form I-766, Employment Authorization Document (EAD). To benefit from this notice, the student must request that his or her designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of employment] until [DSO must insert the student's program end date, December 24, 2016, or the current EAD expiration date (if the student is currently authorized off-campus employment), whichever date comes first].

**Must the F-1 student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her "full course of study"?**

No. DHS will deem an F-1 student who receives employment authorization under this notice to be engaged in a "full course of study" for the duration of the employment authorization, provided that a qualifying undergraduate level F-1 student remains registered for a minimum of six credit hours of instruction per academic semester and a qualifying graduate level F-1 student remains registered for a minimum of three credit hours of instruction per academic semester. See 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if otherwise maintaining F-1 status.

**Will an F-2 dependent (spouse or minor child) of an F-1 student covered by this notice be eligible to apply for employment authorization?**

No. An F-2 spouse or minor child of an F-1 student does not have authorization to work in the United States and, therefore, may not accept employment under the F-2 status. See 8 CFR 214.2(f)(15)(i).

**Will the suspension of the applicability of the standard student employment requirements apply to an alien who receives an F-1 visa after publication of this notice in the Federal Register?**

No. The suspension of the applicability of the standard regulatory requirements only applies to those F-1 students who meet the following conditions:

- (1) Are a citizen of Nepal;
- (2) Was lawfully present in the United States in F-1 nonimmigrant status on April 25, 2015, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);
- (3) Are enrolled in a school that is SEVP-certified for enrollment for F-1 students;
- (4) Are currently maintaining F-1 status; and
- (5) Are experiencing severe economic hardship as a direct result of the damage caused by the earthquake of April 25, 2015.

Even if experiencing severe economic hardship as a direct result of the damage caused by the earthquake, an F-1 student who does not meet all of these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements.

**Does this notice apply to an F-1 student who departs the United States after publication of this notice in the Federal Register and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?**

Yes. This notice applies to such a student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I-20. Subject to the specific terms of this notice, the normal rules for visa issuance (including those related to public charge and nonimmigrant intent) remain applicable to a nonimmigrant that needs to apply for a new F-1 visa to continue an educational program in the United States.

**Does this notice apply to elementary school, middle school, and high school students in F-1 status?**

Yes. However, this notice does not reduce the required course load for elementary school, middle school, or high school F-1 students. Such Nepali students must maintain the minimum number of hours of class attendance per week prescribed by the school for normal progress toward graduation. See 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F-1 students—regardless of educational level—as required by the regulations at 8 CFR 214.2(f)(9)(i) and (f)(9)(ii). Eligible F-1 students from Nepal enrolled in an elementary school, middle school, or high school do benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.



**Does this notice apply to a student in an English as a Second Language (ESL) program in F-1 status?**

Yes. However special conditions apply to credit hour programs and clock hour programs, given the varied nature and structure of ESL programs.

(1) Credit Hour Programs. For an ESL program with a course load measured in credit hours, an eligible F-1 student may take a reduced course load. This amount must always be, at minimum, six credit hours of instruction per academic semester at the undergraduate level not less than three credit hours of instruction per academic semester at the graduate level. See 8 CFR 214.2(f)(6)(iii). Additionally, an eligible F-1 student must continue to make progress toward completing the course of study. See 8 CFR 214.2(f)(5)(v).

(2) Clock Hour Programs. An eligible F-1 student may take a reduced course load for an ESL program with a course load measured in clock hours. This amount always must be at least half of what constitutes a normal “full course of study” for the student. See 8 CFR 214.2(f)(6)(iii). For programs where the dominant part of the course of study consists of classroom instruction, the reduced course load must consist of a minimum of nine hours of instruction per week. For programs where the dominant part of the course of study consists of laboratory instruction, the reduced course load must consist of a minimum of eleven hours of instruction per week. See 8 CFR 214.2(f)(6)(iii). The student also must continue to make progress toward completing the course of study. See 8 CFR 214.2(f)(5)(v).

In general, an eligible student who takes a reduced course load must accomplish the reduced course load by taking at least half of what would constitute a normal “full

course of study” for the student. For example, an eligible student taking two or more classes per semester for 20 hours a week may take a reduced course load, but only if the student continues to attend class and the resultant total clock hour amount is at least half of what would constitute a normal “full course of study” for the student. In this case, if a normal full course load for the student is 20 hours a week, an eligible student may reduce his or her course load to no less than 10 hours a week.

If this program offers two courses per semester, one for 15 hours and one for five hours, the student may only drop the five-hour class. The student may not seek to artificially remove hours from the 15-hour course to get as close as possible to the 10-hour lower limit. An eligible student may reduce courses in their entirety but may not seek to reduce hours from a course.

In all instances, an eligible student receives full-time employment authorization.

### **On-Campus Employment Authorization**

**Will an F-1 student who receives on-campus employment authorization under this notice have authorization to work more than 20 hours per week while school is in session?**

Yes. For an F-1 student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 student’s on-campus employment to 20 hours per week while school is in session. An eligible student has authorization to work more than 20 hours per week while school is in session, if the DSO has entered the following statement in the remarks field of the SEVIS student record, which will appear on the student’s Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from

[DSO must insert the beginning date of employment] until [DSO must insert the student's program end date or December 24, 2016, whichever date comes first].

To obtain on-campus employment authorization, the student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the damage caused by the earthquake in Nepal on April 25, 2015. A student authorized by the DSO to engage in on-campus employment by means of this notice does not need to make any filing with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time work on-campus when school is not in session or during school vacations apply. See 8 CFR 214.2(f)(9)(i).

**Will an F-1 student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F-1 student status?**

Yes. DHS will deem an F-1 student who receives on-campus employment authorization under this notice to be engaged in a "full course of study" for the purpose of maintaining their F-1 status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice. See 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 status. Nothing in this notice mandates that school officials allow a student to take a reduced course load if the reduction would not meet the school's minimum course load requirement for continued enrollment.<sup>2</sup>

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<sup>2</sup> Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

## **Off-Campus Employment Authorization**

**What regulatory requirements does this notice temporarily suspend relating to off-campus employment?**

For an F-1 student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

- (a) The requirement that a student must have been in F-1 status for one full academic year to be eligible for off-campus employment;
- (b) The requirement that an F-1 student must demonstrate that acceptance of employment will not interfere with the student's carrying a "full course of study"; and
- (c) The requirement that limits a student's work authorization to no more than 20 hours per week of off-campus employment while school is in session.

**Will an F-1 student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?**

Yes. DHS will deem an F-1 student who receives off-campus employment authorization by means of this notice to be engaged in a "full course of study" for the purpose of maintaining F-1 status for the duration of employment authorization if the student satisfies the minimum course load requirement described in this notice. See 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 status. Nothing in this notice mandates that school officials allow a student to take a reduced course load if such a reduced course load would not meet the school's minimum course load requirement.

**How may an eligible F-1 student obtain employment authorization for off-campus employment with a reduced course load under this notice?**

An F-1 student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship resulting from the April 25, 2015 earthquake in Nepal. Filing instructions are at <http://www.uscis.gov/i-765>.

Fee considerations. Submission of a Form I-765 currently requires payment of a \$380 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765. See [www.uscis.gov/feewaiver](http://www.uscis.gov/feewaiver). The submission must include an explanation of why USCIS should grant the fee waiver and the reasons for the student's inability to pay. See 8 CFR 103.7(c).

Supporting documentation. An F-1 student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to the student's DSO:

- (1) This employment is necessary to avoid severe economic hardship; and
- (2) The hardship is resulting from the April 25, 2015 earthquake in Nepal.

If the DSO agrees that the student should receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on the student's Form I-20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I-766 until [DSO must insert the student's program end date or December 24, 2016, whichever date comes first].

The student must then file the properly endorsed Form I-20 and Form I-765 according to the instructions for the Form I-765. The student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that a student be approved for Special Student Relief, the DSO certifies the following:

- (a) The student is in good academic standing as determined by the DSO;
- (b) The student is a citizen of Nepal and is experiencing severe economic hardship as a direct result of the damage caused by the earthquake on April 25, 2015, as documented on the Form I-20;
- (c) The student is carrying a “full course of study” at the time of the request for employment authorization;
- (d) The student has confirmed that he or she will comply with the reduced course load requirements of 8 CFR 214.2(f)(6)(iii) and register for the duration of the authorized employment for a minimum of six credit hours of instruction per academic semester if the student is at the undergraduate level or for a minimum of three credit hours of instruction per academic semester if the student is at the graduate level; and
- (e) The off-campus employment is necessary to alleviate severe economic hardship to the individual caused by the April 25, 2015 earthquake in Nepal.

Processing. To facilitate prompt adjudication of the student’s application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the student should do both of the following:

- (a) Ensure that the application package includes all of the following documents:
  - (1) A completed Form I-765;

(2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student's Form I-20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase "SPECIAL STUDENT RELIEF."

Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I-765, a USCIS official will send the student an EAD as evidence of the student's employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

### **Temporary Protected Status (TPS) Considerations**

**Can an F-1 student apply for TPS and for benefits under this notice at the same time?**

Yes. An F-1 student who has not yet applied for TPS or for student relief under this notice has two options. Under the first option, the student may file the TPS application according to the instructions in the Federal Register notice designating Nepal for TPS. See 80 FR 36346, June 24, 2015. All TPS applicants must file a Form I-821, Application for Temporary Protected Status, and Form I-765, regardless of whether they are seeking employment authorization under TPS. The fee (or a properly documented fee waiver request) for the Form I-765 is necessary only if the applicant is seeking employment authorization under TPS. See 8 CFR 244.6. After receiving the TPS-related EAD, a student who files a TPS application and requests employment authorization under TPS may ask the DSO to take the following steps:

- (1) Make the required entry in SEVIS;
- (2) Issue an updated Form I-20 as described in this notice; and
- (3) Note that the student has authorization to carry a reduced course load and is working pursuant to a TPS-related EAD.

A student concurrently maintains F-1 status and TPS if he or she maintains the minimum course load described in this notice, does not otherwise violate his or her F-1 status as provided under 8 CFR 214.1(g), and maintains his or her TPS.

Under the second option, the student may apply for an EAD under student relief. In this instance, the student must file the Form I-765 with the location specified in the filing instructions. At the same time, the student may file a separate TPS application but must submit the TPS filing according to the instructions provided in the Federal Register notice designating Nepal for TPS. Because the student already has applied for employment authorization under student relief, the Form I-765 submitted as part of the TPS application is without fee. The student should not check any of the boxes requesting a TPS-related EAD when filling-out Form I-821. Again, the student will be able to maintain F-1 status and TPS.

**When a student applies simultaneously for TPS status and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?**

The student must maintain normal course load requirements for a “full course of study” unless or until the student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a student to drop below 12 credit hours. Once approved for “severe economic hardship” employment



authorization, the student may drop below 12 credit hours (with a minimum of six credit hours of instruction per academic semester if the student is at the undergraduate level, or for a minimum of three credit hours of instruction per academic semester if the student is at the graduate level). See 8 CFR 214.2(f)(6), 214.2(f)(5)(v), 214.2(f)(9)(i) and (ii).

**How does a student who has received approval for employment authorization under TPS then apply for authorization to take a reduced course load under this notice?**

There is no further application process. The student only needs to demonstrate to the DSO the economic hardship caused by the damage caused by the April 25, 2015 earthquake in Nepal and receive the DSO recommendation in SEVIS. The DSO's recommendation in SEVIS will enable the student with TPS to reduce his or her course load without violating his or her F status. USCIS will not issue any other EAD.

**Can a student who has been granted TPS apply for reinstatement to F-1 student status after his or her F-1 status has lapsed?**

A student whose F-1 status lapses after he or she is granted TPS may apply for reinstatement to F-1 student status if the student meets the requirements of 8 CFR 214.2(f)(16). For example, to qualify for reinstatement, the student will be required to establish that his or her violation of F-1 status resulted from circumstances beyond the student's control such as serious injury or illness or, rather than a pattern of repeated violations.

**How long will this notice remain in effect?**

This notice grants temporary relief until December 24, 2016, to eligible F-1 students. DHS will continue to monitor the situation in Nepal. Should the special

provisions authorized by this notice need modification or extension, DHS will announce such changes in the Federal Register.

### **Paperwork Reduction Act (PRA)**

An F-1 student seeking off-campus employment authorization due to severe economic hardship must demonstrate to the student's DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that the student should receive such employment authorization must recommend application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

This notice also allows an eligible F-1 student to request employment authorization, work an increased number of hours while school is in session, and reduce his or her course load while continuing to maintain F-1 student status.

To apply for work authorization, an F-1 student must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the Paperwork Reduction Act (PRA). (OMB Control No. 1615-0040). Although there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

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**Jeh Charles Johnson,**  
**Secretary of Homeland Security.**

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